

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

MAY - 4 2015

**MATTHEW J. DYKMAN**  
**CLERK**

Matthew Albion Alarcon #63235  
Full Name/Prisoner Number

PO Box 1059 Santa Fe New Mexico

87504  
Complete Mailing Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

Civil Action No. 15cv380 RB/SCY  
(To be supplied by the Court)

Matthew Albion Alarcon #63235

\_\_\_\_\_, Plaintiff(s),  
Full name(s) and prisoner number(s)  
(Do not use *et al.*)

v.

Gregg Marcantel, Mike Heredia, J. Baird

Jerry Ruck, Defendant(s).  
(Do not use *et al.*)

**PRISONER'S CIVIL RIGHTS COMPLAINT**

**A. PARTIES AND JURISDICTION**

1. Matthew Albion Alarcon #63235 is a citizen of New Mexico who  
(Plaintiff) (State)

presently resides at PO Box 1059 P.M. mailing address  
(mailing address or place of confinement)

2. Defendant Gregg Marcantel is a citizen of New Mexico  
(name of first defendant) (State)

whose address is 4337 State Rd 14 Santa Fe New Mexico 87508,  
(Santa Fe)

and who is employed as Secretary of Collections. At the time the claim(s)  
(title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

☒ Yes ☐ No. If your answer is "Yes," briefly explain:

Gregg Marcantel is Secretary of New Mexico Collections  
Department

3. Defendant Milke Heredia is a citizen of New Mexico  
 (name of second defendant) (State)

whose address is 6900 W. Miller Drive Hobbs New Mexico 88244

and who is employed as Capt of Administration at LCC At the time the claim(s)  
 (title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

☒ Yes ☐ No. If your answer is "Yes," briefly explain:

Milke Heredia is Administration Captain at Lea County Correctional Facility  
 (continued on extra page) See 4-parties

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

(CHECK ONE OR BOTH:)

☒ Jurisdiction is asserted pursuant to 42 U.S.C. § 1983 (for state defendants) or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (for federal defendants).

☐ Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

## B. NATURE OF THE CASE

BRIEFLY state the background of your case. It is believed to the best of my knowledge that the above named defendants failed to follow multiple policies and procedures, also the due process of prisoner's rights. I also believe that excessive cruel and unusual punishment has been implemented.

## C. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I: New Mexico Corrections Department policy and procedures  
CD-C190100-(Inmate Discipline) - due process

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.) I Matthew Alarcon as to date have received no mis-

conduct report for the alleged incidents that occurred between (the dates of allegations) Cpt Heredia or Warden J. Beard had the responsibility to produce a misconduct report within the allowed time limits. Gregg Marcantel, and Jerry Roark have the responsibility to assure that the administration order them follow the policies stated in all claims.

Claim II: Due Process - Interim level VI placement 143001 - level VI  
Placement criteria and procedures (0143002), policy of the New  
Mexico Corrections Department.

Supporting Facts: On March 6, 2014, Matthew Alarcon was placed into Interim level VI status specific to predatory, intimidating and extortion of other inmates forcing them to seek protective custody. It was alleged 3 inmates have positively identified Alarcon as the primary suspected inmate. On multiple dates thru March up to April many hearings were conducted with Cpt Heredia and case-worker C. Jones. Thru multiple hearings petitioner was only advised on these hearings that he was being referred to level VI at P.M.M. and would be pending approval from C.B.C. for placement. During these brief hearings petitioner was not allowed to provide input on the alleged accusations or challenge the confidential information, on or before any of these hearings petitioner was not provided with a summary of the confidential information, which would allow the accused inmate to challenge the truthfulness of the confidential information received. Cpt Mike Heredia, Warden J. Beard, Jerry Roark, or Gregg Marcantel never gave any type of opportunity to allow the petitioner to prove his innocence, and because no investigation was done the day of the alleged incidents within 24 hours the incidents took place, such evidence as the cameras, witnesses, witnesses statements would have given petitioner the opportunity to prove his innocence. On April 25, 2014, after petitioner was referred to level VI placement petitioner received a summary, better yet a copy of a memorandum in reference to placement based on confidential information. Petitioner was asked to sign this memorandum as a summary for his placement but petitioner refused to sign. Petitioner refused to sign because it was not given in a timely manner, (on the date of my hearing or a day prior) which would ~~allow the petitioner~~ allow the petitioner the chance to challenge the facts against him at the time of his hearing. Petitioner's hearing was held on March 26, 2014, Cpt Heredia Mike, took it as his own reason for placement ~~based~~ based on information he received and believed to be true. Cpt Mike Heredia failed to conduct a proper investigation which would have proved that there was no real reason that directly proved petitioner committed any infraction or justified reason for placement.

**Claim III:** Cruel and unusual punishment, emotional distress,  
and defamation of character.

Supporting Facts: On March 10 I had a 1 day hearing and was threatened to have harm inflicted upon me by Cpt Heredia. He started if you want to be a predatory inmate I'll have your ass locked up and sent back to general population and you'll see how quick the predator will become the prey. I was also told by Cpt Heredia to file an appeal of my placement and he told the case worker to give me the papers I need, but that it didn't matter cuz it wasn't going to help me cuz my appeal was denied. Cpt Heredia put it in his own power to act as the investigating officer and as the chairman of the committees held as of inmates placement only to make sure inmate was placed in long term disciplinary segregation and make sure that inmate was to be shipped to a maximum security prison. (cont on pg 5) **claim III**

**D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF** (continued on blank page)

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment? Yes ☒ No. If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF.")

a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

b. Name and location of court and docket number \_\_\_\_\_

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

d. Issues raised: \_\_\_\_\_

e. Approximate date of filing lawsuit: \_\_\_\_\_

f. Approximate date of disposition: \_\_\_\_\_

2. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D. ☒ Yes ☐ No.

If your answer is "Yes," briefly describe how relief was sought and the results.

I filed informal complaints and grievances also filed appeals all have been denied. Informal complaints and grievances was stated the matter at hand was not grievable.

3. I have exhausted available administrative remedies. ☒ Yes ☐ No. If your answer is "Yes," briefly explain the steps taken. Attach proof of exhaustion. If your answer is "No," briefly explain why administrative remedies were not exhausted.

Inmate has filed appeals and all have been denied.

**E. PREVIOUSLY DISMISSED ACTIONS OR APPEALS**

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in a court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

b. Name and location of court and docket number \_\_\_\_\_

c. Grounds for dismissal: ( ) frivolous ( ) malicious ( ) failure to state a claim upon which relief may be granted.

d. Approximate date of filing lawsuit: \_\_\_\_\_

e. Approximate date of disposition: \_\_\_\_\_

2. Are you in imminent danger of serious physical injury? Yes No. If your answer is "Yes," please describe the facts in detail below without citing legal authority or argument.

at the current time no because inmate is segregated but if released in to general population then yes because inmate has many enemies Throught the V.M.C.D. and has been threatened with acts of violence against his person.

**G. REQUEST FOR RELIEF**

I request the following relief: Petitioner requests immediate release from long term disciplinary segregation and reclassified in the most appropriate level of custody and best interest of petitioners well-being, Also That the above named defendants be Held Accountable for their actions and pay a reasonable Relief of 2 million dollars and have all good time that has not been credited, credited to (2,000,000) needed inmates file due to his placement in level 6.

☐  
 CNMCF/CMRU/CMU  
 P.O. Drawer 1128  
 Los Lunas, NM 87031

☐  
 GCCF  
 P.O. Box 520  
 Santa Rosa, NM 88435

☐  
 LCCF  
 6900 W. Millen Dr.  
 Hobbs, NM 88244

☐  
 PNM  
 P.O. Box 1059  
 Santa Fe, NM 87504

☐  
 SNMCF  
 P.O. Box 639  
 Las Cruces, NM 88004

☐  
 SNMCF-POU  
 P.O. Box 20005  
 Las Cruces, NM 88004

☐  
 WNMCF  
 P.O. Drawer 250  
 Grants, NM 87020

☐  
 NENMDF  
 185 Doctor Michael Jenkins Rd.  
 Clayton, NM 88415

Name \_\_\_\_\_

No. \_\_\_\_\_ Unit \_\_\_\_\_

A. Parties

Date: \_\_\_\_\_

(Name of 3rd defendant)

(State)

Defendant J. Beard is a citizen of New Mexico

whose address is 6900 W. Millen Dr. Hobbs New Mexico 88244

and who is employed as security warden at Lea County  
correctional facility. At the time the claimsalleged in this complaint arose, was this defendant acting under  
color of state law? Yes.Defendant J. Beard is the security warden at Lea  
county correctional facility.

(Name of 4th defendant)

Defendant Terry Roark is a citizen of New Mexico whose  
address is 4337 State Rd 14, Santa Fe NM 87508 and whois employed as Director of Adult Prisons Division of the New Mexico  
corrections Department. At the time the claims alleged in this  
complaint arose, was this defendant acting under color of state  
law? Yes.Defendant Terry Roark is director of adult prisons of the New  
Mexico Corrections Department.

CLAIM III

Continued

Page: \_\_\_\_\_

Segregation

Petitioner has been placed in Administrative on March 6, and has been transferred to a maximum security prison in Santa Fe on 5/22/14. due to the actions of Cpt Heredia, petitioner suffers to emotional distress to the action taken against him for no wrong proven against him, due to lack of communication with family members and friends, petitioner has also suffered the loss of his relationship with his wife due to placement in long term segregation where phone calls are limited also due to hardship caused by the actions of Cpt Mike Heredia, sending petitioner to serve long term segregation for no wrong proven against the petitioner. allegations by Cpt Heredia against the petitioner have yet to be proven by admissions or guilt of any kind by Misconduct Reports that would call for this justification. allegations of being gang active with no history of being gang active, claims of being a predatory inmate with no type of behavior to support these allegations, extorting of other inmates, when no proof of any extortion, insulting behavior claiming I've threatened to end someone's life, these are serious allegations that need to be proved against the accused inmate, but yet they have failed to provide any such Misconduct Report to prove allegations to be true. I feel that such claims is a Declaration of character because they have belittled me in every way possible, making petitioner appear to be something he is not. I am not a threat to the security of the institution or to any others. I have no history past or present to support the allegations against me. There is no justification for this placement in long term segregation by Cpt Mike Heredia, Warden T. Beard, or ~~the~~ Director of Adult prisons Terry Rook, and Gregg Marcantel. Terry Rook has stated he reviewed CD policy and all was correct upon inmates placement, he has denied my appeal and stated because I have no positive response as to these claims or concerns to my involvement that I nonchalantly dismiss them, therefore you show no willingness to change your behavior, my appeal was denied, policies and procedures have not been met and I have not been found guilty of any of these allegations against me. petitioner has up to date over two years clear conduct.



Non descriptive words, language with multiple meanings, or language open to interpretation. <sup>Questionable</sup>



**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Level VI/Interim Level VI/PHD/Disciplinary Placement**

INMATE NAME: Alarcon, Matthew Albian NMCD: 63235

On (date) March 6, 2014 at (time) 15:00

**The Placement was made:**

- ☐ 2.a Voluntary Placement- Inmate must complete **Request for Voluntary Placement in Inmate Protection Form** CD-143001.2
- ☒ Involuntary Placement- Must Specify the reason for placement
- 1.a ☒ Inmate poses a threat to the security of the institution as defined by Policy 143000
- 1.b ☐ Major disciplinary reports or pattern of minor disciplinary reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.
- 1.c ☐ Inmate is a suspect of or the subject of an investigation for a serious criminal offense.
- 1.d ☐ STG involvement or organized activity as defined by this policy. Must meet one criteria relating to membership or association (143001 list d.1) and one criteria relating to behavior (143001 list d.2)
- 1.e ☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, unwillingness to participate in programs. [NOTE: this must be supported by misconduct reports, or staff observation logs]
- 2.b ☐ Involuntary Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population

☐ Pre-Hearing Detention: Inmate has received a misconduct report and poses an escape risk or a threat to the security of the institution, public, other inmates, staff or others (CD-090101, ¶E.2.)

☐ Disciplinary Segregation: Inmate has been found guilty on misconduct report Log # 17434  
 And has received      days of segregation time; Begin date:     ; End date:     

Summary of facts that justify placement: As of March 6, 2014, Inmate Alarcon, Matthew Albian, NMCD #63235 was placed into Involuntary Interim Level VI status specific to predatory, intimidating, and extortion of other inmates forcing them to seek protective custody. Three (3) inmates have positively identified Inmate Alarcon, Matthew Albian, NMCD #63235 as the primary suspected inmate.

Shift Supervisor (receipt acknowledged)

Inmate Signature

Served by (Staff Member)

Time

Time

Time

Date

Date

Date

**72 HOUR REVIEW:** Discharge from Level VI ☐ Remain in Level VI ☒ Release from PHD ☐ Continue PHD ☐

Specific Justification for Action: Alarcon, M. Shall remain in

Involuntary PHD pending alternate housing.

Unit Manager/Chief of Security or Above

Time

Date

**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level VI Status Review – 7 and 30 Days**

NAME	NMCD#	HOUSING UNIT	STATUS
HARRON, Matthew	63235	5B10	Inmate/Pool #4

☒ 7 day☐ 30 dayLEVEL VI START DATE: 5/6/2014**REASON(S) for initial placement in Level VI:**

- ☐ Voluntary Placement.
- ☒ Inmate poses a threat to the security of the institution.
- ☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.
- ☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.
- ☐ STG involvement or organized activity as defined by this policy.
- ☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.
- ☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

**SUMMARY OF EVIDENCE:**

As of 5/6/2014, Inmate Matthew Harron NMCD# 63235 was placed in Inmate Protection status, specifically to protect staff and other inmates from the threat of harm to staff and inmates.

Decision: Continue Level VI No \_\_\_\_\_ Yes \_\_\_\_\_**Justification:**

As of 5/6/2014, Inmate Matthew Harron NMCD# 63235 was placed in Inmate Protection status, specifically to protect staff and other inmates from the threat of harm to staff and inmates.

**Unit Management Team or Authorized Group Signatures:**

[Signature] [Signature]

Date of Review: <u>5/6/2014</u>	Date of Next Review: <u>5/21/2014</u>	Location of Next Review: <u>5B10</u>
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Administrative Review: \_\_\_\_\_ Approve \_\_\_\_\_ Deny**Comments:**

S/ \_\_\_\_\_ Date \_\_\_\_\_

S/ Matthew Harron 63235 Date 5-17-14

Inmate Signature (acknowledgment of receipt)

Original: Classification File

Copy: Classification Officer (1); Inmate (1)

**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level VI Status Review - 7 and 30 Days**

<b>NAME</b> <i>[Signature]</i>	<b>NMCD#</b> <i>6-13</i>	<b>HOUSING UNIT</b> <i>2-10</i>	<b>STATUS</b> <i>Level VI</i>
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☒ 7 day    ☐ 30 day    **LEVEL VI START DATE:** *5-2-11*

**REASON(S) for initial placement in Level VI:**

- ☐ Voluntary Placement.
- ☒ Inmate poses a threat to the security of the institution.
- ☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.
- ☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.
- ☐ STG involvement or organized activity as defined by this policy.
- ☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.
- ☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

**SUMMARY OF EVIDENCE:**

*[Handwritten summary of evidence]*

**Decision:**    Continue Level VI    No \_\_\_\_\_ Yes ☒

**Justification:**

*[Handwritten justification]*

**Unit Management Team or Authorized Group Signatures:**

*[Signatures]*

<b>Date of Review:</b> <i>5-2-11</i>	<b>Date of Next Review:</b> <i>5-2-11</i>	<b>Location of Next Review:</b> <i>Level VI</i>
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**Administrative Review:**    ☒ Approve    ☐ Deny

**Comments:**

S/ *[Signature]*    Date *5-2-11*

S/ *[Signature]*    Date *5-2-11*  
Inmate Signature (acknowledgment of receipt)

Original: Classification File

Copy: Classification Officer (1); Inmate (1)



**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level VI Status Review – 7 and 30 Days**

NAME	NMCD#	HOUSING UNIT	STATUS
<i>[Handwritten Name]</i>	<i>[Handwritten NMCD#]</i>	<i>[Handwritten Housing Unit]</i>	<i>[Handwritten Status]</i>

☐ 7 day    ☐ 30 day    **LEVEL VI START DATE:** *[Handwritten Date]*

**REASON(S) for initial placement in Level VI:**

- ☐ Voluntary Placement.
- ☒ Inmate poses a threat to the security of the institution.
- ☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.
- ☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.
- ☐ STG involvement or organized activity as defined by this policy.
- ☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.
- ☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

**SUMMARY OF EVIDENCE:**

*[Handwritten Summary of Evidence]*

**Decision:** Continue Level VI    No ☐    Yes ☒

**Justification:**

*[Handwritten Justification]*

**Unit Management Team or Authorized Group Signatures:**

*[Handwritten Signatures]*

<b>Date of Review:</b> <i>[Handwritten Date]</i>	<b>Date of Next Review:</b> <i>[Handwritten Date]</i>	<b>Location of Next Review:</b> <i>[Handwritten Location]</i>
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**Administrative Review:** ☒ Approve    ☐ Deny

**Comments:**

SI *[Handwritten Signature]* Date *[Handwritten Date]*

SI *[Handwritten Signature]* Date *[Handwritten Date]*

Inmate Signature (acknowledgment of receipt)

Original: Classification File  
Copy: Classification Officer (1); Inmate (1)

**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level VI Status Review – 7 and 30 Days**

NAME	NMCD#	HOUSING UNIT	STATUS
1300111111	13700	2110	Level VI

☒ 7 day ☐ 30 day **LEVEL VI START DATE:** 1/1/11

**REASON(S) for initial placement in Level VI:**

- ☒ Voluntary Placement.  
☒ Inmate poses a threat to the security of the institution.  
☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.  
☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.  
☐ STG involvement or organized activity as defined by this policy.  
☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.  
☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

**SUMMARY OF EVIDENCE:**

1300111111 transferred from Level III to Level VI on 1/1/11 due to inmate posing a threat to the security of the institution. Inmate has been placed in Inmate Protection since 1/1/11. Inmate has been placed in Inmate Protection since 1/1/11.

**Decision:** Continue Level VI ☐ No ☒ Yes

**Justification:**

Inmate has been placed in Inmate Protection since 1/1/11. Inmate has been placed in Inmate Protection since 1/1/11. Inmate has been placed in Inmate Protection since 1/1/11.

**Unit Management Team or Authorized Group Signatures:**

\_\_\_\_\_  
 \_\_\_\_\_

Date of Review:	Date of Next Review:	Location of Next Review:
1/1/11	1/1/11	1/1/11

**Administrative Review:** ☐ Approve ☐ Deny

**Comments:**

S/ \_\_\_\_\_ Date \_\_\_\_\_

S/ \_\_\_\_\_ Date \_\_\_\_\_

Inmate Signature (acknowledgment of receipt)

Original: Classification File

Copy: Classification Officer (1); Inmate (1)



**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level VI Status Review - 7 and 30 Days**

NAME	NMCD#	HOUSING UNIT	STATUS
<i>Alfonso, J. D. [unclear]</i>	<i>10000</i>	<i>50216</i>	<i>Det. Level VI</i>

☒ 7 day    ☐ 30 day    **LEVEL VI START DATE:** *4/21/2014*

**REASON(S) for initial placement in Level VI:**

- ☒ Voluntary Placement.
- ☐ Inmate poses a threat to the security of the institution.
- ☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.
- ☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.
- ☐ STG involvement or organized activity as defined by this policy.
- ☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.
- ☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

**SUMMARY OF EVIDENCE:**

*ES of 110110 will leave Alamo Det. Unit 15235 was placed in  
voluntary status specific to Voluntary. Involuntary and extension of  
other courts. Inmate is to seek placement in other unit.*

**Decision:** Continue Level VI    No \_\_\_\_\_ Yes *1*

**Justification:**

*Inmate on Det. Level VI. Inmate was placed in Det. Level VI due to his  
voluntary status specific to Voluntary. Involuntary and extension of  
other courts.*

**Unit Management Team or Authorized Group Signatures:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>Date of Review:</b> <u><i>4/21/2014</i></u>	<b>Date of Next Review:</b> <u><i>5/2/2014</i></u>	<b>Location of Next Review:</b> <u><i>50216</i></u>
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**Administrative Review:** \_\_\_\_\_ Approve \_\_\_\_\_ Deny

**Comments:**

S/ \_\_\_\_\_ Date \_\_\_\_\_

S/ \_\_\_\_\_ Date \_\_\_\_\_

Inmate Signature (acknowledgment of receipt)

Original: Classification File

Copy: Classification Officer (1); Inmate (1)

NAME	NMCD#	HOUSING UNIT	STATUS
Harrell, William	6-2	11	10-1-68

**REASON(S) for initial placement in Level VI:**

☐ Voluntary Placement.

☒ Inmate poses a threat to the security of the institution.

☐ Major disciplinary report/pattern of minor reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property.

☐ Inmate is a suspect of or subject of an investigation for a serious criminal offense.

☐ STG involvement or organized activity as defined by this policy.

☐ Repeated behavior of unwillingness to comply with rules, unpredictable or disruptive behavior, etc.

☐ Involuntary placement in Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he or she remains in general population.

the two children, which appears to be coming to the surface  
and along with this the frequency of the two is not too far apart.

**Justification:**

Remains to be paid for the purchase cost of the  
the car is \$10,000. The car is now worth \$8,000.  
The difference is \$2,000.

10/24/2014

S/                      Date                     

22



**NEW MEXICO CORRECTIONAL DEPARTMENT  
INMATE CLASSIFICATION**

INMATE'S NAME: Matthew Alarcon NMCD#INSTITUTION: LCCF HOUSING UNIT: 8210DATE OF CLASSIFICATION DECISION OR RECOMMENDATION THAT IS BEING  
APPEALED: 3/14/14DATE RECEIVED BY INSTITUTIONAL CLASSIFICATION APPEALS  
OFFICER: 3-20-14 LOG#: LC14-03-02

NOTE: This form must be submitted to the Institutional Classification Appeals Officer within 15 calendar days of the classification recommendation/decision. For further information on filing a classification appeal, see Policy CD-080100 in the Law Library.

STATE APPEAL: Include documentation and specific reasons for your appeal. Use additional pages, if necessary.

Inmate's Signature: Matthew Alarcon Date: 3/20/14

(See page Attached)

TO BE COMPLETED BY THE CLASSIFICATION APPEALS OFFICER

A. ☒ Your classification appeal is accepted for consideration

B. Your appeal is being returned to you for the following reason(s):

- ☐ 1. The appeal is currently under review.
- ☐ 2. The appeal does not involve a classification decision.
- ☐ 3. The appeal is a group appeal or petition.
- ☐ 4. The appeal is not timely.
- ☐ 5. Other: Specify \_\_\_\_\_

Brand  
Classification Appeals Officer3-20-14  
Date Received

CLASSIFICATION APPEALS OFFICER'S INVESTIGATION AND RECOMMENDATION:

CLASSIFICATION APPEALS OFFICER \_\_\_\_\_

DATE \_\_\_\_\_

DECISION OF WARDEN \_\_\_\_\_

APPEAL GRANTED \_\_\_\_\_

APPEAL DENIED \_\_\_\_\_

REASONS: \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE: \_\_\_\_\_

DATE RETURNED TO INMATE: \_\_\_\_\_

Appeal:

3/20/14

I am appealing the decision of L.C.C.F. recommendation on 3/14/14 for level 6 due to grounds of false testimony of other inmates. I have been in gpl since march 13-13 and as of today have only had incidents with a couple of inmates, now they are saying that I am preadtorial to other inmates, or intimidating and extorting inmates forcing them to seek proctive custody. in all my time that I have done I have never acted upon other inmates with such behavior. I have had clear conduct going on 17 months and have no such behavior therefore I am appealing this here Recommendation to be placed in level 6. I have done nothing wrong to anyone or have I ever forced any inmate to seek proctive custody. if they seeked proctive custody it was cuz of the way they felt not upon the way I have acted. as I told Cot Herriedig and major Sandoval I acted in a way of self defense. other then that I am not guilty of such behavior I would really appreciate if this matter was looked into further for there has not been a complete investigation which is unfair decision of L.C.C.F. staff to make. Recommending me inmate Matthew Alarcon <sup>#63255</sup> to level 6 for predatory behavior. I would really appreciate if I am to stay here housed at LCCF gpl upon no hard evidence other then word of mouth from inmates who may not like me and wish for me to be gone. I feel I have been discriminated against in my pod by other inmates because the fact that I don't have sexual or rape charges which most of the inmates in gpl have. I've kept myself out of trouble thru out all this time and would remain out of trouble if I was placed back in to gpl. Therefore I am appealing the decision that LCCF recommends level 6 because I have no such behavior. I am sure there must be a certain procedure that must be followed to prove the guilt of an inmate and I have to be able to prove myself. Respectfully

Denied

Matthew Alarcon  
#63255  
Matthew Alarcon

# Offender Discipline History

Offender Name ALARCON, MATTHEW

Offender # 441755

NMCD # 63235

Discipline Case Num	Pending	Final Hearing Date	Incident Case Num	Class	Charge Code	Finding	Hearing Location	Charge Description
123902	N	1/6/2006	73711	MINOR	B9	GUILTY	WESTERN MIN/RES PRESENCE IN UNAUTHORIZED RESTRICTED AREA	
90523	N	1/11/2008	90329	MAJOR	A19	GUILTY	LEA COUNTY CORF DEALING IN DANGEROUS DRUGS.	
90523	N	1/11/2008	90329	MAJOR	A31	GUILTY	LEA COUNTY CORF ATTEMPT OR COMPLICITY	
97699	N	12/18/2008	97505	MAJOR	A30	GUILTY	LEA COUNTY CORF TATTOOING AND/OR POSSESSION OF TATTOO PA	
123321	N	4/2/2012	123105	MINOR	B16	GUILTY	GUADALUPE CO CC DISOBEYING LAWFUL ORDER.	
123321	N	4/2/2012	123105	MINOR	B9	GUILTY	GUADALUPE CO CC PRESENCE IN UNAUTHORIZED RESTRICTED AREA	
923794	N	4/18/2012	123578	MAJOR	A18	GUILTY	GUADALUPE CO CC POSSESSION OR USE OF DANGEROUS DRUGS	
924564	N	5/23/2012	124348	MINOR	B21	GUILTY	GUADALUPE CO CC UNAUTHORIZED USE OF INSTITUTIONAL EQUIP	
927768	N	10/15/2012	127552	MAJOR	A30	GUILTY	NORTHEAST NM DE TATTOOING AND/OR POSSESSION OF TATTOO PA	
127905	N	10/23/2012	127689	MINOR	B21	GUILTY	NORTHEAST NM DE UNAUTHORIZED USE OF INSTITUTIONAL EQUIP	

**NEW MEXICO  
CORRECTIONS DEPARTMENT  
Level V/VI Hearing Decision**

NAME <b>Alarcon, Matthew</b>	NMCD# <b>63235</b>	HOUSING UNIT <b>HU1B H-107</b>
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**REASON FOR HEARING:**    Interim ☐    Initial ☒    Annual ☐    Special ☐

**Reason(s) for initial placement in Level V / VI**

- ☐ B.1 Voluntary Inmate Protection (Inmate must complete **Request for Voluntary Placement** Form CD-143001.1)
- ☒ 1.a Inmate poses a threat to the security of the institution as defined by Policy 143000.
- ☐ 1.b Major disciplinary reports or pattern of minor disciplinary reports that threaten the security of the institution, safety of staff or inmates, or involves destruction of property
- ☐ 1.c STG involvement or organized activity as defined by Policy CD-143001. Must meet one criteria relating to membership or association (143001 List d.1) and one criteria relating to behavior (143001 List d.2)
- ☐ B.2 Involuntary Inmate Protection: inmate is in danger of bodily harm or violent acts from other inmates if he/she remains in general population.
- ☐ Other (specify) \_\_\_\_\_

**Summary of Evidence**

On March 6, 2014, Inmate Matthew Alarcon #63235 was placed on Interim Level VI. The basis for this placement is due to his predatory and intimidating behavior at Lea County Correctional Facility. Inmate Alarcon exhibited predatory and intimidating behavior and extorted other inmates within GP-1 population, forcing some of them to seek Protective Custody placement. Three (3) inmates claimed Inmate Alarcon as an enemy. On January 17, 2014, MAH 003 claimed that Inmate Alarcon and others have fought with him due to their belief that he is an informant. On January 15, 2014 MAH 002 claimed he overheard Inmate Alarcon and others talking about the debt he owed, but that "he was too big to fight one on one, so they needed to roll in on him and take him out with more backup." Source MAH 002 fears bodily harm or acts of violence against his person. On May 24, 2013, MAH 001 claimed that Inmate Alarcon insisted he join the disruptive group "Cruces Boyz" and do "work" for them. Source MAH 001 was threatened with bodily harm and fears for his safety.

**Decision:**

**INTERIM and INITIAL:** Refer to Level V / VI    No ☐ Yes ☒

**ANNUAL:** Retain in VI ☐ Refer as specified below ☐

**Justification:**

Inmate Matthew Alarcon #63235 is a threat to the security of the institution. Pursuant to Policy 143000 Inmate Alarcon meets placement criteria, specifically, CD-143002 Paragraph A.1.a which states that an inmate may be placed on Involuntary Level VI if the inmate is a threat to the security of the institution which is defined as Any behavior or situation which involves, causes or is reasonably likely to cause acts of violence, a substantial risk of death or serious injury to any person. Based on the above information Inmate Alarcon will be placed Level VI.

For **INITIAL** Inmate was read verbatim the appeals process and received an appeal form

\_\_\_\_\_  
Committee Chairperson/Unit Manager

Date 6/12/14

**Date of Hearing:**

**Time of Hearing:**

**Location of Hearing:**

**Members Present:**

**Members Present:**

**Members Present:**

**Administrative Review:**

☒ AFFIRM    ☐ MODIFY    ☐ REVISE

**Comments:**

S/ \_\_\_\_\_  
Warden/designee

Date 6-12-14

S/ Matthew Alarcon  
Inmate Signature (acknowledgment of receipt)

Date 6/12/14

## STATE OF NEW MEXICO

## Corrections Department

Central Office Administration  
 4337 State Road 14, Santa Fe, NM 87508  
 PO Box 27116, Santa Fe, NM 87502-0116  
 www.corrections.state.nm.us  
 Phone: 505.827.8600 - Fax: 505.827.8220

**Gregg Marcantel**  
 Secretary 505.827.8884

**Aurora B. Sánchez**  
 Deputy Secretary of Administration  
 505.827.8631

**Joe W. Booker, Jr.**  
 Deputy Secretary of Operations  
 505.827.8667



Susana Martinez  
 Governor

Administrative Services 505.827.8601  
 Adult Prisons 505.827.8767  
 Corrections Industries 505.827.8906  
 General Counsel 505.827.8698  
 Information Technology 505.827.8713  
 Probation & Parole 505.827.8830  
 Office of Recidivism Reduction 505.827.8541  
 Training Academy 505.827.8900

**"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."**

**TO:** Matthew Alarcon, NMCD# 63235  
**FROM:** Jerry Roark, Director -- Adult Prisons Division  
**DATE:** July 7, 2014  
**RE:** Appeal of Placement in Level VI.

On June 24<sup>th</sup>, 2014 I received your Appeal of Level V or Level VI Placement or Retention Decision form dated June 12<sup>th</sup>, 2014 in which you are appealing your placement in Level VI.

You begin your appeal by claiming you were not allowed to challenge the facts and allegations against you which placed you in Level VI status. You also claim the criterion used in this process was not stated in policy terms which in your view left the issue a broader spectrum for interpretation. You also claim staff involvement in the committee was not done properly.

On March 6, 2014, you were placed into Interim Level VI based upon being a threat to the security of the institution in which information was provided as to your activities using predatory behavior in extorting, threatening to assault and recruitment into the "Cruces Boyz" disruptive group towards other inmates.

The UMT conducted by Unit Manager/Classification supervisor on March 10, 2014 in which based on an investigation results that confirmed the issue of a threat to the security of the institution. You also waived by your initials on form CD-143001.3 the 48 hour notice and signed that report. Associate Warden Baird determined from the UMT decision this decision is correct.

Policy CD-143001 defines **Threats to the security of the institution** as:

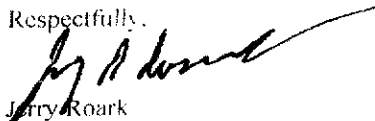
**"Any behavior or situation which involves, causes or is reasonably likely to cause acts of violence, a substantial risk of death or serious injury to any person, substantial destruction of property, escape or risk of escape. Includes introduction of contraband or conspiracy or attempt to introduce contraband".**

You provide no positive response or concerns as to your involvement in these previous claims and you nonchalantly dismiss them. The documentation and your explanation, you have provided does not show any willingness on your part to change your behavior.

Having reviewed your placement, your institutional adjustment, and Department policy, I am affirming the decisions of Department administrators with regard to your continued placement in Level VI.

This concludes this response to your appeal of placement in Level VI. I received on June 24<sup>th</sup>, 2014.

Respectfully,

  
 Jerry Roark  
 Director Adult Prisons Division

☐  
 CNMCF/CMRU/CMU  
 P.O. Drawer 1328  
 Los Lunas, NM 87031

☐  
 GCCF  
 P.O. Box 520  
 Santa Rosa, NM 88435

☐  
 LCCF  
 6900 W. Millen Dr.  
 Hobbs, NM 88244

☐  
 PNM  
 P.O. Box 1059  
 Santa Fe, NM 87504

☐  
 SNMCF  
 P.O. Box 639  
 Las Cruces, NM 88004

☐  
 SNMCF-POU  
 P.O. Box 20005  
 Las Cruces, NM 88004

☐  
 WNMCF  
 P.O. Drawer 250  
 Grants, NM 87020

☐  
 NENMDF  
 185 Doctor Michael Jenkins Rd.  
 Clayton, NM 88415

Name \_\_\_\_\_  
 No. \_\_\_\_\_ Unit \_\_\_\_\_

Date: \_\_\_\_\_

I hereby certify that a copy of the foregoing pleading/  
 document was mailed to:

Gregg Marcantel at 4337 state rd 14 Santa Fe  
 New Mexico 87508 on April — 2015

Matthew CD

I hereby certify that a copy of the foregoing pleading/  
 document was mailed to:

Jerry Leark at 4337 state Rd 14 Santa Fe  
 New Mexico 87508 on April — 2015

Matthew CD

I hereby certify that a copy of the foregoing pleading/  
 document was mailed to:

Mike Heredia at 6900 W. Millen Dr Hobbs  
 New Mexico 88244 on April — 2015

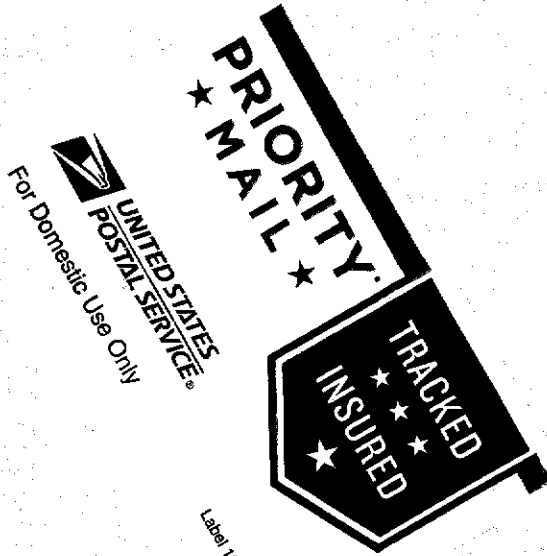
Matthew CD

I hereby certify that a copy of the foregoing pleading/  
 document was mailed to:

J Beaird at 6900 W. Millen Dr Hobbs New  
 Mexico 88244 on April — 2015

Matthew CD

MATTHEW ALAREON #63235  
PO. Box 1059  
Santa Fe NM  
87504



Label 107, July 2013

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MATTHEW J. DYKMAN  
Clerk

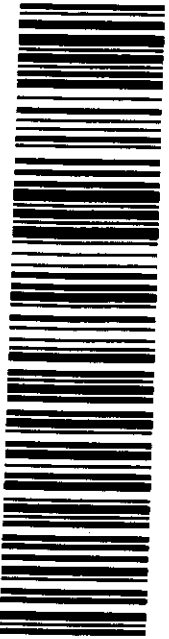
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